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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,546	06/05/2001	Dan Kikinis	ISURFTV135	6897

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EXAMINER

LAYE, JADE O

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/875,546	Applicant(s) KIKINIS, DAN	
	Examiner Jade O. Laye	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

By

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, dated 9/9/05, with respect to all Claims have been considered but are moot in view of the new ground(s) of rejection, which was necessitated by Applicant's amended claims. Accordingly, **THIS ACTION IS MADE FINAL**.
2. Applicant's amendments, dated 9/9/05, have been entered and made of record.
3. Due to Applicant's amended Drawings, the objection applied in the previous Non-Final Action has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6, 8-14, 16-22, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (US Pat. Pub. No. 2005/0028208).

As to Claim 1, Ellis et al disclose an interactive television system comprising a remote access device. The remote device comprises a video display, which displays an EPG received

from the user broadcasting equipment (i.e., receiving system) and can be displayed concurrently with said broadcast. (Abstract; Fig. 1 & 2A; Pars. [0002, 0014, 0017, 0017, 0022, 0066-0071, 0102]). Accordingly, Ellis et al anticipate each and every limitation of Claim 1.

Claims 9 and 17 correspond to Claim 1. Thus, each is analyzed and rejected as previously discussed.

As to Claim 2, Ellis further teaches the system utilizes user profiles to display favorite listings, channels, etc. (i.e., portions of EPG) of a user. (Par. [0109, 0158-0160]). Accordingly, Ellis et al anticipate each and every limitation of Claim 2.

Claims 10 and 18 correspond to the system claim 2. Accordingly, each is analyzed and rejected as previously discussed.

As to Claim 3, Ellis further discloses the EPG is received via a network. (same citations as under Claim 1). Accordingly, Ellis et al anticipate each and every limitation of Claim 3.

Claims 11 and 19 correspond to the system claim 3. Accordingly, each is analyzed and rejected as previously discussed.

As to Claim 4, Ellis discloses the remote device can be wireless. (Par. [0092]). Accordingly, Ellis et al anticipate each and every limitation of Claim 4.

Claims 12 and 20 correspond to the system claim 4. Accordingly, each is analyzed and rejected as previously discussed.

As to Claim 5, Ellis further teaches the remote device can be a PDA. (Par. [0092]). Accordingly, Ellis et al anticipate each and every limitation of Claim 5.

Claims 13 and 21 correspond to the system claim 5. Accordingly, each is analyzed and rejected as previously discussed.

As to Claim 7, Ellis further discloses the system is a television system. (Citations used to reject Claim 1). Accordingly, Ellis et al anticipate each and every limitation of Claim 7.

Claims 15 and 23 correspond to the system claim 7. Accordingly, each is analyzed and rejected as previously discussed.

As to Claim 8, Ellis further discloses the use of a set top box. (Par. [0082]). Accordingly, Ellis et al anticipate each and every limitation of Claim 8.

Claims 16 and 24 correspond to the system claim 8. Accordingly, each is analyzed and rejected as previously discussed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 6, 14, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al in view of Elliot. (US Pat. No. 6,473,097).

Claim 6 recites the system of claim 2, wherein the computing device is a Web Phone. As discussed above, Ellis et al anticipate each and every limitation of Claim 2, and further teach that any suitable computer device can be used as the remote terminal. But, Ellis et al fail to specifically teach the limitations of claim 6. However, within the same field of endeavor, Elliot

Art Unit: 2617

discloses a cellular phone, which can receive/transmit data from/to the Internet via radio frequencies. (Col. 3, Ln. 35-45 & Col. 4, Ln. 36-46). Accordingly, it would have been obvious to one of ordinary skill in this art at the time of Applicant's invention to combine the systems of Ellis and Elliot in order to provide a system capable of utilizing a mobile phone having EPG capability as a remote controller, thereby providing the user with extending functionality and control.

Claims 14 and 22 correspond to the system claim 6. Therefore, each is analyzed and rejected as previously discussed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2617

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye
October 4, 2005.



VIVEK SRIVASTAVA
PRIMARY EXAMINER